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# A BILL FOR AN ACT

RELATING TO FARM EMPLOYEE HOUSING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 205-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:  
3       "(d) Agricultural districts shall include:  
4           (1) Activities or uses as characterized by the cultivation  
5           of crops, crops for bioenergy, orchards, forage, and  
6           forestry;  
7           (2) Farming activities or uses related to animal husbandry  
8           and game and fish propagation;  
9           (3) Aquaculture, which means the production of aquatic  
10          plant and animal life within ponds and other bodies of  
11          water;  
12          (4) Wind-generated energy production for public, private,  
13          and commercial use;  
14          (5) Biofuel production, as described in section 205-  
15          4.5(a)(16), for public, private, and commercial use;  
16          (6) Solar energy facilities; provided that:



1 (A) This paragraph shall apply only to land with soil  
2 classified by the land study bureau's detailed  
3 land classification as overall (master)  
4 productivity rating class B, C, D, or E; and  
5 (B) Solar energy facilities placed within land with  
6 soil classified as overall productivity rating  
7 class B or C shall not occupy more than ten per  
8 cent of the acreage of the parcel, or twenty  
9 acres of land, whichever is lesser, unless a  
10 special use permit is granted pursuant to section  
11 205-6;

12 (7) Bona fide agricultural services and uses that support  
13 the agricultural activities of the fee or leasehold  
14 owner of the property and accessory to any of the  
15 above activities, regardless of whether conducted on  
16 the same premises as the agricultural activities to  
17 which they are accessory, including farm dwellings and  
18 farm employee housing as defined in section 205-  
19 4.5(a)(4), [~~employee housing~~] farm buildings, mills,  
20 storage facilities, processing facilities,  
21 photovoltaic, biogas, and other small-scale renewable



1 energy systems producing energy solely for use in the  
2 agricultural activities of the fee or leasehold owner  
3 of the property, agricultural-energy facilities as  
4 defined in section 205-4.5(a)(17), vehicle and  
5 equipment storage areas, and plantation community  
6 subdivisions as defined in section 205-4.5(a)(12);

7 (8) Wind machines and wind farms;

8 (9) Small-scale meteorological, air quality, noise, and  
9 other scientific and environmental data collection and  
10 monitoring facilities occupying less than one-half  
11 acre of land; provided that these facilities shall not  
12 be used as or equipped for use as living quarters or  
13 dwellings;

14 (10) Agricultural parks;

15 (11) Agricultural tourism conducted on a working farm, or a  
16 farming operation as defined in section 165-2, for the  
17 enjoyment, education, or involvement of visitors;  
18 provided that the agricultural tourism activity is  
19 accessory and secondary to the principal agricultural  
20 use and does not interfere with surrounding farm  
21 operations; provided further that this paragraph shall



1 apply only to a county that has adopted ordinances  
2 regulating agricultural tourism under section 205-5;

3 (12) Agricultural tourism activities, including overnight  
4 accommodations of twenty-one days or less, for any one  
5 stay within a county; provided that this paragraph  
6 shall apply only to a county that includes at least  
7 three islands and has adopted ordinances regulating  
8 agricultural tourism activities pursuant to section  
9 205-5; provided further that the agricultural tourism  
10 activities coexist with a bona fide agricultural  
11 activity. For the purposes of this paragraph, "bona  
12 fide agricultural activity" means a farming operation  
13 as defined in section 165-2;

14 (13) Open area recreational facilities;

15 (14) Geothermal resources exploration and geothermal  
16 resources development, as defined under section 182-1;

17 (15) Agricultural-based commercial operations registered in  
18 Hawaii, including:

19 (A) A roadside stand that is not an enclosed  
20 structure, owned and operated by a producer for  
21 the display and sale of agricultural products



4 (B) Retail activities in an enclosed structure owned  
5 and operated by a producer for the display and  
6 sale of agricultural products grown in Hawaii,  
7 value-added products that were produced using  
8 agricultural products grown in Hawaii, logo items  
9 related to the producer's agricultural  
10 operations, and other food items;

11 (C) A retail food establishment owned and operated by  
12 a producer and permitted under chapter 11-50,  
13 Hawaii administrative rules, that prepares and  
14 serves food at retail using products grown in  
15 Hawaii and value-added products that were  
16 produced using agricultural products grown in  
17 Hawaii;

18 (D) A farmers' market, which is an outdoor market  
19 limited to producers selling agricultural  
20 products grown in Hawaii and value-added products



1 that were produced using agricultural products  
2 grown in Hawaii; and

15 (16) Hydroelectric facilities as described in section 205-  
16 4.5(a)(23); and  
17 (17) Composting and co-composting operations; provided that  
18 operations that process their own green waste and do  
19 not require permits from the department of health  
20 shall use the finished composting product only on the



1                   operation's own premises to minimize the potential  
2                   spread of invasive species.  
3   Agricultural districts shall not include golf courses and golf  
4   driving ranges, except as provided in section 205-4.5(d). No  
5   landfill unit, as defined in section 342H-52, shall be located  
6   on land within the agricultural district that has soil  
7   classified by the land study bureau's detailed land  
8   classification as overall (master) productivity rating class A  
9   in a county with a population greater than five hundred  
10   thousand. Agricultural districts include areas that are not  
11   used for, or that are not suited to, agricultural and ancillary  
12   activities by reason of topography, soils, and other related  
13   characteristics."

14                SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is  
15   amended as follows:

16                1. By amending subsection (a) to read:

17                "(a) Within the agricultural district, all lands with soil  
18   classified by the land study bureau's detailed land  
19   classification as overall (master) productivity rating class A  
20   or B and for solar energy facilities, class B or C, shall be  
21   restricted to the following permitted uses:





1 (B) "Farm employee housing" means one or more  
2 residential dwelling units accessory to the farm  
3 operation that may be attached or detached from  
4 the primary farm dwelling; provided that the farm  
5 employee housing shall be no larger than eight  
6 hundred habitable square feet under roof per  
7 residential dwelling unit;  
8 provided that the total land area upon which the farm  
9 dwelling, farm employee housing, and all appurtenances  
10 are situated shall be no larger than a ratio  
11 of square feet per acre of agricultural land  
12 leased to the fee owner of the farm dwelling; provided  
13 further that no fee owner of the farm dwelling shall  
14 submit any portion thereof to a condominium property  
15 regime to separate the ownership of the farm employee  
16 housing units from the farm dwelling pursuant to  
17 chapter 514B; provided further that no portion of the  
18 farm dwelling shall be used for agricultural tourism  
19 or related accommodations under paragraph (14);  
20 (5) Public institutions and buildings that are necessary  
21 for agricultural practices;



- 1        (6) Public and private open area types of recreational
- 2                uses, including day camps, picnic grounds, parks, and
- 3                riding stables, but not including dragstrips,
- 4                airports, drive-in theaters, golf courses, golf
- 5                driving ranges, country clubs, and overnight camps;
- 6                provided that overnight camps in operation before
- 7                January 1, 1961, may be approved by special permit;
- 8        (7) Public, private, and quasi-public utility lines and
- 9                roadways, transformer stations, communications
- 10               equipment buildings, solid waste transfer stations,
- 11               major water storage tanks, and appurtenant small
- 12               buildings such as booster pumping stations, but not
- 13               including offices or yards for equipment, material,
- 14               vehicle storage, repair or maintenance, treatment
- 15               plants, corporation yards, or other similar
- 16               structures;
- 17        (8) Retention, restoration, rehabilitation, or improvement
- 18               of buildings or sites of historic or scenic interest;
- 19        (9) Agricultural-based commercial operations as described
- 20               in section 205-2 (d) (15);



1 (10) Buildings and uses, including mills, storage, and  
2 processing facilities, maintenance facilities,  
3 photovoltaic, biogas, and other small-scale renewable  
4 energy systems producing energy solely for use in the  
5 agricultural activities of the fee or leasehold owner  
6 of the property, and vehicle and equipment storage  
7 areas that are normally considered directly accessory  
8 to the above-mentioned uses and are permitted under  
9 section 205-2(d);

10 (11) Agricultural parks;

11 (12) Plantation community subdivisions, which as used in  
12 this chapter means an established subdivision or  
13 cluster of farm employee housing, community buildings,  
14 and agricultural support buildings on land currently  
15 or formerly owned, leased, or operated by a sugar or  
16 pineapple plantation; provided that the existing  
17 structures may be used or rehabilitated for use, and  
18 new farm employee housing and agricultural support  
19 buildings may be allowed on land within the  
20 subdivision as follows:



- (A) The farm employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;
- (B) The farm employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or
- (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services[].

For the purposes of this paragraph, "farm employee housing" has the same meaning as in paragraph (4) (B);

12 (13) Agricultural tourism conducted on a working farm, or a  
13 farming operation as defined in section 165-2, for the  
14 enjoyment, education, or involvement of visitors;  
15 provided that the agricultural tourism activity is  
16 accessory and secondary to the principal agricultural  
17 use and does not interfere with surrounding farm  
18 operations; provided further that this paragraph shall  
19 apply only to a county that has adopted ordinances  
20 regulating agricultural tourism under section 205-5;



1        (14) Agricultural tourism activities, including overnight  
2        accommodations of twenty-one days or less, for any one  
3        stay within a county; provided that this paragraph  
4        shall apply only to a county that includes at least  
5        three islands and has adopted ordinances regulating  
6        agricultural tourism activities pursuant to section  
7        205-5; provided further that the agricultural tourism  
8        activities coexist with a bona fide agricultural  
9        activity. For the purposes of this paragraph, "bona  
10        fide agricultural activity" means a farming operation  
11        as defined in section 165-2;

12        (15) Wind energy facilities, including the appurtenances  
13        associated with the production and transmission of  
14        wind generated energy; provided that the wind energy  
15        facilities and appurtenances are compatible with  
16        agriculture uses and cause minimal adverse impact on  
17        agricultural land;

18        (16) Biofuel processing facilities, including the  
19        appurtenances associated with the production and  
20        refining of biofuels that is normally considered  
21        directly accessory and secondary to the growing of the

1 energy feedstock; provided that biofuel processing  
2 facilities and appurtenances do not adversely impact  
3 agricultural land and other agricultural uses in the  
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational infrastructure  
7 of the appropriate type and scale for economic  
8 commercial storage and distribution, and other similar  
9 handling of feedstock, fuels, and other products of  
10 biofuel processing facilities.

11 "Biofuel processing facility" means a facility  
12 that produces liquid or gaseous fuels from organic  
13 sources such as biomass crops, agricultural residues,  
14 and oil crops, including palm, canola, soybean, and  
15 waste cooking oils; grease; food wastes; and animal  
16 residues and wastes that can be used to generate  
17 energy;

18 (17) Agricultural-energy facilities, including  
19 appurtenances necessary for an agricultural-energy  
20 enterprise; provided that the primary activity of the  
21 agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an  
2 agricultural-energy enterprise, the total acreage  
3 devoted to agricultural activity shall be no less than  
4 ninety per cent of the total acreage of the  
5 agricultural-energy enterprise. The  
6 agricultural-energy facility shall be limited to lands  
7 owned, leased, licensed, or operated by the entity  
8 conducting the agricultural activity.

9 As used in this paragraph:

10 "Agricultural activity" means any activity  
11 described in paragraphs (1) to (3) of this subsection.

12 "Agricultural-energy enterprise" means an  
13 enterprise that integrally incorporates an  
14 agricultural activity with an agricultural-energy  
15 facility.

16 "Agricultural-energy facility" means a facility  
17 that generates, stores, or distributes renewable  
18 energy as defined in section 269-91 or renewable fuel  
19 including electrical or thermal energy or liquid or  
20 gaseous fuels from products of agricultural activities  
21 from agricultural lands located in the State.



1                   "Appurtenances" means operational infrastructure  
2                   of the appropriate type and scale for the economic  
3                   commercial generation, storage, distribution, and  
4                   other similar handling of energy, including equipment,  
5                   feedstock, fuels, and other products of  
6                   agricultural-energy facilities;

7                   (18) Construction and operation of wireless communication  
8                   antennas, including small wireless facilities;  
9                   provided that, for the purposes of this paragraph,  
10                  "wireless communication antenna" means communications  
11                  equipment that is either freestanding or placed upon  
12                  or attached to an already existing structure and that  
13                  transmits and receives electromagnetic radio signals  
14                  used in the provision of all types of wireless  
15                  communications services; provided further that "small  
16                  wireless facilities" shall have the same meaning as in  
17                  section 206N-2; provided further that nothing in this  
18                  paragraph shall be construed to permit the  
19                  construction of any new structure that is not deemed a  
20                  permitted use under this subsection;



1 (19) Agricultural education programs conducted on a farming  
2 operation as defined in section 165-2, for the  
3 education and participation of the general public;  
4 provided that the agricultural education programs are  
5 accessory and secondary to the principal agricultural  
6 use of the parcels or lots on which the agricultural  
7 education programs are to occur and do not interfere  
8 with surrounding farm operations. For the purposes of  
9 this paragraph, "agricultural education programs"  
10 means activities or events designed to promote  
11 knowledge and understanding of agricultural activities  
12 and practices conducted on a farming operation as  
13 defined in section 165-2;

14 (20) Solar energy facilities that do not occupy more than  
15 ten per cent of the acreage of the parcel, or twenty  
16 acres of land, whichever is lesser or for which a  
17 special use permit is granted pursuant to section  
18 205-6; provided that this use shall not be permitted  
19 on lands with soil classified by the land study  
20 bureau's detailed land classification as overall  
21 (master) productivity rating class A;



1 (21) Solar energy facilities on lands with soil classified  
2 by the land study bureau's detailed land  
3 classification as overall (master) productivity rating  
4 B or C for which a special use permit is granted  
5 pursuant to section 205-6; provided that:

6 (A) The area occupied by the solar energy facilities  
7 is also made available for compatible  
8 agricultural activities at a lease rate that is  
9 at least fifty per cent below the fair market  
10 rent for comparable properties;

11 (B) Proof of financial security to decommission the  
12 facility is provided to the satisfaction of the  
13 appropriate county planning commission before the  
14 date of commencement of commercial generation;  
15 and

16 (C) Solar energy facilities shall be decommissioned  
17 at the owner's expense according to the following  
18 requirements:

19 (i) Removal of all equipment related to the  
20 solar energy facility within twelve months



1 of the conclusion of operation or useful  
2 life; and

7 For the purposes of this paragraph, "agricultural  
8 activities" means the activities described in  
9 paragraphs (1) to (3);

10 (22) Geothermal resources exploration and geothermal  
11 resources development, as defined under section 182-1;  
12 (23) Hydroelectric facilities, including the appurtenances  
13 associated with the production and transmission of  
14 hydroelectric energy, subject to section 205-2;  
15 provided that the hydroelectric facilities and their  
16 appurtenances:

17 (A) Shall consist of a small hydropower facility as  
18 defined by the United States Department of  
19 Energy, including:

20 (i) Impoundment facilities using a dam to store  
21 water in a reservoir;





1 (24) Notwithstanding any other law to the contrary,  
2 composting and co-composting operations; provided that  
3 operations that process their own green waste and do  
4 not require permits from the department of health  
5 shall use the finished composting product only on the  
6 operation's own premises to minimize the potential  
7 spread of invasive species."

**8** 2. By amending subsection (c) to read:

9            "(c) Within the agricultural district, all lands with soil  
10        classified by the land study bureau's detailed land  
11        classification as overall (master) productivity rating class C,  
12        D, E, or U shall be restricted to the uses permitted for  
13        agricultural districts as set forth in subsection (a) (4) and  
14        section 205-5(b)."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Agriculture; Agricultural Districts; Zoning; Farm Dwelling; Farm Employee Housing

**Description:**

Clarifying the permitted uses within the agriculture district with respect to farm dwellings and farm employee housing.

Effective 7/1/3000. (HD1)

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